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8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC 3888

12 **GRANT ARTHUR WILLEY**  
13 **9565 Shadowgrove Drive**  
**Rancho Cucamonga, CA 91730**

**A C C U S A T I O N**

14  
15 **Pharmacist License No. RPH 38872**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about August 23, 1984, the Board of Pharmacy (Board) issued Pharmacist  
23 License No. RPH 38872 to Grant Arthur Willey (Respondent). The Pharmacist License was in  
24 full force and effect at all times relevant to the charges brought herein and will expire on July 31,  
25 2012, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board, under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

**STATUTORY PROVISIONS**

4. Section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 4059 states as follows:

“(a) A person may not furnish any dangerous drug, except upon prescription of a physician, dentist . . . pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician. . . “

6. Section 4060 states, in pertinent part:

“No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.”

7. Section 4300 states, in pertinent part, that “[e]very license issued may be suspended or revoked.”

8. Section 4301 sets forth, in relevant part:

“The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

1       ....

2       “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
3 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
4 whether the act is a felony or misdemeanor or not.”

5       ....

6       “(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
7 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
8 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
9 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
10 practice authorized by the license.”

11       ....

12       “(j) The violation of any of the statutes of this state, or any other state, or of the United  
13 States regulating controlled substances and dangerous drugs.”

14       ....

15       “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
16 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
17 federal and state laws and regulations governing pharmacy, including regulations established by  
18 the board or by any other state or federal regulatory agency.

19       (p) Actions or conduct that would have warranted denial of a license.”

20       9. Health and Safety Code section 11350, subdivision (a), states in relevant part:

21       “(a) Except as otherwise provided in this division, every person who possesses (1) any  
22 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of  
23 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or  
24 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section  
25 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic  
26 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian  
27 licensed to practice in this state, shall be punished by imprisonment in the state prison.”

28

1       10. Health and Safety Code section 11170 states: "No person shall prescribe, administer,  
2 or furnish a controlled substance for himself."

3       11. Health and Safety Code section 11173 states:

4       "(a) No person shall obtain or attempt to obtain controlled substances, or procure or  
5 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,  
6 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

7       (b) No person shall make a false statement in any prescription, order, report, or record,  
8 required by this division."

9                                   **REGULATORY PROVISIONS**

10       12. California Code of Regulations, title 16, section 1770, states, in pertinent part:

11       "For the purpose of denial, suspension, or revocation of a personal or facility license  
12 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
13 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
14 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
15 licensee or registrant to perform the functions authorized by his license or registration in a manner  
16 consistent with the public health, safety, or welfare."

17                                   **COST RECOVERY**

18       13. Section 125.3 states, in pertinent part, that the Board may request the administrative  
19 law judge to direct a licentiate found to have committed a violation or violations of the licensing  
20 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
21 case.

22                                   **CONTROLLED SUBSTANCES**

23       14. "Dilaudid" is a trade name for Hydromorphone, an Opium derivative, which is  
24 classified as a Schedule II Controlled Substance pursuant to Health and Safety Code section  
25 11055, subdivision (b)(1)(k), and is a dangerous drug within the meaning of Code section 4022.

26                                   **FIRST CAUSE FOR DISCIPLINE**

27                                   **(Use or Self-Administration of Controlled Substances)**

28       15. Respondent is subject to disciplinary action under section 4301, subdivisions (h), (j),

1 (o), and (p), for unprofessional conduct, in conjunction with Health and Safety Code section  
2 11170 and California Code of Regulations, title 16, section 1770, in that Respondent used and/or  
3 self-administered controlled substances, in a manner which was dangerous and/or injurious to  
4 himself and/or others, as follows:

5 a. From August 27, 2008 through December 1, 2008, Respondent was employed as a  
6 Pharmacist at Rancho Specialty Hospital (Rancho Hospital), located at 10841 White Oak Avenue,  
7 Rancho Cucamonga, California. On November 28, 2008, pursuant to his employment contract,  
8 Respondent was requested to and did provide a urine sample for drug testing. Prior to the test,  
9 Respondent admitted to Rancho Hospital's Director of Pharmacy that he took a syringe of  
10 injectable Dilaudid from the hospital's pharmacy for his personal use, and the Board's  
11 investigation determined that Respondent had taken and self-administered a Dilaudid 2 mg/ml  
12 injectable from Rancho Hospital, without a prescription or authorization from a physician or other  
13 legal prescriber. On December 1, 2008, Respondent was terminated from his employment at  
14 Rancho Hospital for violation of policies, poor work quality, and for not successfully completing  
15 his probationary conditions of employment. On December 15, 2008, Respondent's Fluid Drug  
16 Screen was completed, and tested positive for opiates.

#### 17 **SECOND CAUSE FOR DISCIPLINE**

##### 18 **(Possession of Controlled Substances without a Valid Prescription)**

19 16. Respondent is subject to disciplinary action under Sections 4059 and 4301,  
20 subdivisions (j), (o), and (p), and 4060, in conjunction with Health and Safety Code sections  
21 11350, subdivision (a) and 11170, for unprofessional conduct, in that, on or about November 28,  
22 2008, Respondent was found to be in possession of a controlled substance without a valid  
23 prescription. Complainant refers to, and by this reference incorporates, the allegations set forth  
24 above in Paragraph 15, subparagraph (a), as though fully set forth herein.

#### 25 **THIRD CAUSE FOR DISCIPLINE**

##### 26 **(Dishonest Acts)**

27 17. Respondent is subject to disciplinary action under Section 4301, subdivisions (f), (o)  
28 and (p), in conjunction with Health and Safety Code section 11173, for unprofessional conduct, in

1 that Respondent committed dishonest acts, and admitted that he stole Dilaudid, a controlled  
2 substance, from Rancho Hospital while employed there. Complainant refers to, and by this  
3 reference incorporates, the allegations set forth above in Paragraph 15, subparagraph (a), as  
4 though fully set forth herein.

5 **MATTERS IN AGGRAVATION**

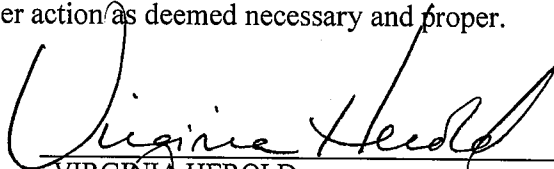
6 18. The Board's investigation revealed that, prior to working at Rancho Hospital,  
7 Respondent abruptly quit his employment with Pomona Valley Hospital Medical Center, where  
8 he worked at the hospital's pharmacy from approximately October 22, 2004 through April 6,  
9 2008, while he was under investigation for taking a Dilaudid injectable.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
12 and that following the hearing, the Board issue a decision:

- 13 1. Revoking or suspending Pharmacist License No. RPH 38872, issued to Grant Arthur  
14 Willey;
- 15 2. Ordering Grant Arthur Willey to pay the Board the reasonable costs of the  
16 investigation and enforcement of this case, pursuant to Business and Professions Code section  
17 125.3; and
- 18 3. Taking such other and further action as deemed necessary and proper.

19  
20 DATED: 1/14/11

  
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant

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